

REMARKS

Applicants have amended claims 1, 4, 12, and 43. Claims 1, 12, and 52 are independent claims. Claims 1, 4-10, 12, and 43-52 are currently pending. Support for these amendments may be found, for example, in paragraph 9 of the specification and in original claim 4. These amendments were made in the interests of furthering prosecution. Applicants hereby specifically reserve the right to prosecute claims of different or broader scope in a continuation or divisional application.

Applicants thank the Examiner for entertaining a telephone interview on December 12, 2006. During this interview, the undersigned pointed out various reasons why U.S. Patent No. 6,174,329 ("Callol et al.") did not disclose the claimed stent. These arguments are reproduced below. The Examiner stated that Applicants should address these differences in a reply to the Office Action and reminded the Applicants that the Examiner may need to conduct additional searching.

In the Office Action mailed 10/13/2006, the Examiner rejected claims 1, 4-10, 12, 43-44, and 46-52 under 35 U.S.C. § 102(b) as anticipated by Callol et al. This rejection is improper because Callol et al. fail to disclose each of the following elements set forth in the pending claims:

- a second layer that comprises an alloy,
- a third layer comprising an oxidized form of the alloy,
- a second layer that comprises gold, platinum, or palladium, and
- a second layer that comprises iridium.

Callol et al. do not disclose a second layer that comprises an alloy.

Callol et al. disclose a radiopaque coating (col. 5, lines 55-60) and a protective layer (col. 6, lines 25-45). Callol et al. do disclose "[a] metallic coating (i.e., titanium and tantalum)" as the protective layer. However, this is not a disclosure of an alloy of titanium and tantalum, as alleged by the Examiner and required by Applicants' claims. Rather, Callol et al. merely disclose two examples of metallic coating materials, titanium and tantalum, that may be used individually. Callol et al. never disclose an *alloy* in which these two metals are together in the

form of a mixture. A plain reading of Callol et al. demonstrates that Callol et al. are merely listing examples of possible metals, not a mixture of metals. In this regard, Applicants note that Callol et al. also use the word "and" in a list setting forth different examples of ceramic coatings:

A ceramic coating (i.e., zirconium nitride, pyrolytic carbon, graphite, Nedox, and titanium nitride) can be applied by the use of a fluidized bed (Col. 6, lines 40-43).

Clearly, this passage does not describe a ceramic coating that is a mixture of zirconium nitride, pyrolytic carbon, graphite, Nedox, *and* titanium nitride. Likewise, Callol et al.'s reference to titanium and tantalum is not a disclosure of an *alloy* of these two metals. Callol et al. also do not disclose any reason to create an alloy of two metals in forming the protective coating. For at least this reason, the rejection of claims 1, 4-10, 12, 43-44, and 46-52 under 35 U.S.C. §102(b) over Callol et al. should be withdrawn.

Callol et al. do not disclose a third layer comprising an oxidized form of the alloy.

Callol et al. disclose the addition of "radiopaque agents such as barium, titanium oxide, and the like" to the protective layer. (Col. 6, line 50.) Callol et al. also disclose "multiple layers of the protective layer . . . where the first layers are loaded with radiopaque agents while the outermost protective layer is not loaded with a radiopaque agent." The Examiner asserts that these statements disclose a third layer having titanium dioxide, which the Examiner asserts is an oxidized form of the alloy. This statement is incorrect because Callol et al. do not disclose an alloy that includes titanium (as discussed above) and because Callol et al. do not disclose the inclusion of titanium dioxide within the alloy. In this regard, Applicants note that the bulk of Callol et al.'s disclosure of possible protective layers relates to non-metallic materials. There is simply no disclosure in Callol et al. to use a combination of (a) a layer of an alloy of titanium and tantalum, and (b) another layer comprising titanium dioxide. In fact, one having ordinary skill in the art would see such a combination as being unnecessary given that a hypothetical alloy of titanium and tantalum would already be radiopaque, and thus not require the addition of titanium dioxide. It is improper to use a laundry list of possible layers of materials to selectively pick a combination of those possible materials to make an anticipation rejection.

For at least this reason, the rejection of claims 1, 4-10, 12, 43-44, and 46-52 under 35 U.S.C. §102(b) over Callot et al. should be withdrawn.

Callot et al. do not disclose a second layer that comprises gold, platinum, or palladium.

Independent claims 1 and 12, as amended, require a first layer including a radiopaque material selected from the group consisting of gold, platinum, and palladium and a second layer comprising an alloy comprising the radiopaque material and a second material. The radiopaque material in the second layer is thus limited to either gold, platinum, or palladium.

Callot et al. do not disclose a second layer that comprises gold, platinum, or palladium alloyed with a second material. Callot et al. do disclose “[a] metallic coating (i.e., titanium and tantalum)” as a protective layer, but as discussed above, this does not constitute a disclosure of an alloy. Furthermore, Callot et al. do not disclose the inclusion of gold, platinum, or palladium in a protective layer. Because Callot et al. fail to disclose this feature, Callot et al. do not anticipate the claims, and the rejection should be withdrawn.

Callot et al. do not disclose a second layer that comprises iridium.

In regard to independent claim 52, Callot et al. fail to disclose a second layer that comprises iridium, as required by claim 52. It is noted that the Examiner never specifically addressed claim 52 and never addressed the limitation of the second layer comprising iridium.

For at least this reason, the rejection of claim 52 under 35 U.S.C. §102(b) over Callot et al. should be withdrawn.

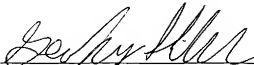
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All of the pending claims are in condition for allowance, and such action is requested.
Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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